

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

MARVIN LIDDELL LOTT, )  
Register No. 198045, )  
 )  
Plaintiff, )  
 )  
v. ) No. 05-4246-CV-C-SOW  
 )  
DAVID DORMIRE, et al., )  
 )  
Defendants. )

**REPORT AND RECOMMENDATION**

Plaintiff, an inmate confined in a Missouri penal institution, brought this case under the Civil Rights Act of 1871, 42 U.S.C. § 1983, and its corresponding jurisdictional statute, 28 U.S.C. § 1343. This case was referred to the undersigned United States Magistrate Judge for processing in accord with the Magistrate Act, 28 U.S.C. § 636, and L.R. 72.1.

A review of the record indicates defendant David Corseica has not been served with process. Fed. R. Civ. P. 4(m) provides:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

Plaintiff's complaint was filed on August 3, 2005, and on September 1, 2005, plaintiff was granted leave to proceed in forma pauperis on his claims. It has been more than 120 days since that order. On September 30, 2005, plaintiff was directed to return by October 20, 2005, completed summons and service forms showing the addresses where defendant may be served. Plaintiff has failed to return the process forms.

IT IS, THEREFORE, RECOMMENDED that plaintiff's claims against defendant David Corseica be dismissed, pursuant to Fed. R. Civ. P. 4(m).

\ Under 28 U.S.C. § 636(b)(1), the parties may make specific written exceptions to this recommendation within twenty days. The District Judge will consider only exceptions to the specific proposed findings and recommendations of this report. Exceptions should not include matters outside of the report and recommendation. Other matters should be addressed in a separate pleading for consideration by the Magistrate Judge.

The statute provides for exceptions to be filed within ten days of the service of the report and recommendation. The court has extended that time to twenty days, and thus, additional time to file exceptions will not be granted unless there are exceptional circumstances. Failure to make specific written exceptions to this report and recommendation may result in a waiver of the right to appeal. *See* L.R. 74.1.

Dated this 17<sup>th</sup> day of January, 2006, at Jefferson City, Missouri.

/s/

**WILLIAM A. KNOX**  
United States Magistrate Judge